

MONTANA LEGISLATIVE HISTORY

Chapter 288 19 79

Bill H 408 S _____ Original bill & history ☒ C

H. Committee on Education

Hearing Date(s) 1-31 ☒ C

2-17 ☒ C

_____ C

_____ C

Date Out _____ C

S. Committee on Education

Hearing Date(s) 3-5 ☒ C

_____ C

_____ C

_____ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

CHAPTER NO. 288.

HOUSE BILL NO. 408

INTRODUCED BY VINGER, JENSEN, ANDERSON, KEYSER,
IVERSON, UHDE, CONROY

IN THE HOUSE

January 25, 1979	Introduced and referred to Committee on Education and Cultural Resources.
February 19, 1979	Committee recommend bill do pass as amended. Report adopted.
February 20, 1979	Printed and placed on members' desks.
February 22, 1979	Second reading, do pass. Considered correctly engrossed.
February 23, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 23, 1979	Introduced and referred to Committee on Education.
March 6, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 8, 1979	Second reading, concurred in.
March 10, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 12, 1979	Returned from second house. Concurred in as amended.
March 14, 1979	Second reading, amendments adopted.

March 15, 1979

Third reading, amendments
adopted. Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 408
2 INTRODUCED BY Viggo Jensen, Andrew Meyer
3 Theresa Ude Couray
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING SCHOOL
5 DISTRICTS TO CONDUCT LESS THAN THE MINIMUM NUMBER OF SCHOOL
6 DAYS PROVIDED BY LAW; PROVIDING DEFINITIONS AND CONDITIONS;
7 PROVIDING FOR PROPORTIONAL REDUCTIONS IN SCHOOL EQUALIZATION
8 AID; AMENDING SECTIONS 20-1-301, 20-6-209, AND 20-9-311,
9 MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 NEW SECTION. Section 1. Purpose. [Sections 1 through
13 5] govern a school district's entitlement to state
14 equalization apportionment funds for any school year during
15 which the school district is unable to conduct the minimum
16 number of school days required by law by reason of one or
17 more unforeseen emergencies. The provisions of [sections 1
18 through 5] must be narrowly interpreted by the
19 superintendent of public instruction.

20 NEW SECTION. Section 2. Definitions. As used in
21 [sections 1 through 5], unless the context clearly indicates
22 otherwise, the following definitions apply:

23 (1) "Unforeseen emergency" means a fire, flood,
24 explosion, storm, earthquake, riot, insurrection, community
25 disaster, or act of God or any combination of the foregoing

1 that acts as a principal cause for a school district's
2 inability to conduct one or more scheduled school days.

3 (2) "School day" means a calendar day on which all
4 students enrolled in the preschool handicapped/kindergarten
5 through 12th grade program of a school district are
6 scheduled for participation in educational activity that is
7 planned, supervised, and conducted by or under the
8 supervision of the school district certificated staff and on
9 which day all or any portion of the students enrolled in the
10 program actually commence participation in such educational
11 activity.

12 (3) "Reasonable effort" means the rescheduling or
13 extension of the school district's instructional calendar in
14 an effort to attain the minimum number of school days
15 required by law by:

16 (a) extending the school year to and through at least
17 June 14; or

18 (b) the use of scheduled vacation days.

19 NEW SECTION. Section 3. Unforeseen emergency minimum.
20 In no case may a district be considered to have made a
21 reasonable effort unless at least 3 school days that have
22 been lost by reason of one or more unforeseen emergencies
23 have in fact been made up.

24 NEW SECTION. Section 4. Determination of eligibility.
25 If the superintendent of public instruction determines that

1 a reasonable effort has been made to make up all school days
2 lost by reason of one or more unforeseen emergencies but
3 fewer than the minimum number of school days required by law
4 have been conducted, the school district will nevertheless
5 be credited with full annual equalization apportionment
6 according to the rate established in [section 5].

7 NEW SECTION. Section 5. Rate of reduction in annual
8 apportionment entitlement. (1) For each school day short of
9 the minimum number of school days required by law that a
10 school district fails to conduct by reason of one or more
11 unforeseen emergencies or by reason of any other cause and
12 for which the school district is not entitled to
13 apportionment credit, the superintendent of public
14 instruction shall reduce the equalization apportionment and
15 entitlement of the district for that school year by 1/180th.

16 (2) Kindergarten and grade 1 through 12 programs shall
17 be considered separately for the purpose of computing
18 compliance with minimum school day requirements and any loss
19 of apportionment.

20 Section 6. Section 20-1-301, MCA, is amended to read:

21 "20-1-301. School fiscal year. The school fiscal year
22 shall begin on July 1 and end on June 30. At least 180
23 school days of pupil instruction shall be conducted during
24 each school fiscal year, unless a variance for kindergarten
25 has been granted under 20-1-302 or a district is granted a

1 variance under the provisions of [sections 1 through 5]. Any
2 district that fails to provide for at least 180 school days
3 of pupil instruction shall not be entitled to receive any
4 apportionment of the state interest and income funds. Any
5 such forfeited moneys shall be apportioned by the county
6 superintendent to the other elementary districts of his
7 county."

8 Section 7. Section 20-6-209, MCA, is amended to read:

9 "20-6-209. Elementary district abandonment. (1) The
10 county superintendent shall declare an elementary district
11 to be abandoned and order the attachment of the territory of
12 such district to a contiguous district of the county when:

13 (a) a school has not been operated by a district for
14 at least 180 days under the provisions of 20-1-301 for each
15 of 3 consecutive school fiscal years or a lesser number of
16 days as approved by the superintendent of public instruction
17 under the provisions of [section 4]; or

18 (b) there is an insufficient number of residents who
19 are qualified electors of the district that can and will
20 serve as the trustees and clerk of the district so that a
21 legal board of trustees can be organized.

22 (2) The county superintendent shall notify the
23 elementary district that has not operated a school for 2
24 consecutive years before the first day of the third year
25 that the failure to operate a school for 180 days or a

1 lesser number of days than approved by the superintendent of
2 public instruction as provided under the provisions of
3 [section 4] during the ensuing school fiscal year shall
4 constitute grounds for abandonment of such district at the
5 conclusion of the succeeding school fiscal year. Failure by
6 the county superintendent to provide such notification shall
7 not constitute a waiver of the abandonment requirement
8 prescribed in subsection (1)(a) above.

9 (3) Any abandonment under subsection (1)(a) shall
10 become effective on July 1. Any abandonment of an elementary
11 district under subsection (1)(b) shall become effective
12 immediately on the date of the abandonment order."

13 Section 8. Section 20-9-311, MCA, is amended to read:

14 "20-9-311. Calculation of average number belonging
15 (ANB). (1) Average number belonging shall be computed by
16 determining the total of the aggregate days of attendance by
17 regularly enrolled, full-time pupils during the current
18 school fiscal year plus the aggregate days of absence by
19 regularly enrolled, full-time pupils during the current
20 school fiscal year and by dividing such total by 180.
21 However, when a school district has approval to operate less
22 than 180 school days under [section 4], such total shall be
23 calculated in accordance with the provisions of [section 5].
24 Attendance for a part of a morning session or a part of an
25 afternoon session by a pupil shall be counted as attendance

1 for one-half day. In calculating the ANB for pupils enrolled
2 in a program established under 20-7-117 prior to January 1,
3 1974, or pursuant to 20-7-117(1), attendance at or absence
4 from a regular session of the program for at least 2 hours
5 of either a morning or an afternoon session will be counted
6 as one-half of a day attended or absent as the case may be.
7 If a variance has been granted as provided in 20-1-302, ANB
8 will be computed in a manner prescribed by the
9 superintendent of public instruction, but in no case shall
10 the ANB exceed one-half for each kindergarten pupil. When
11 any pupil has been absent, with or without excuse, for more
12 than 10 consecutive school days, including
13 pupil-instruction-related days, his absence after the 10th
14 day of absence shall not be included in the aggregate days
15 of absence and his enrollment in the school shall not be
16 considered in the calculation of the average number
17 belonging until he resumes attendance at school.

18 (2) If a student spends less than half his time in the
19 regular program and the balance of his time in school in the
20 special education program, he shall be considered a
21 full-time special pupil but shall not be considered
22 regularly enrolled for ANB purposes. If a student spends
23 half or more of his time in school in the regular program
24 and the balance of his time in the special education
25 program, he shall be considered regularly enrolled for ANB

1 purposes.

2 (3) The average number belonging of the regularly
3 enrolled, full-time pupils for the public schools of a
4 district shall be calculated individually for each school,
5 except that when:

6 (a) more than one school of a district, other than a
7 junior high school in an elementary district which has been
8 approved and accredited as a junior high school, is located
9 within the incorporated limits of a city or town, the
10 average number belonging of such schools shall be based on
11 the aggregate of all the regularly enrolled, full-time
12 pupils attending such schools located within the
13 incorporated limits of a city or town;

14 (b) a junior high school which has been approved and
15 accredited as a junior high school is located within the
16 incorporated limits of a city or town in which a high school
17 is located, all of the regularly enrolled, full-time pupils
18 of the junior high school shall be considered as high school
19 district pupils for the purposes of calculating the average
20 number belonging of the high schools located within the
21 incorporated limits of such city or town;

22 (c) a middle school has been approved and accredited,
23 in which case pupils below the 7th grade shall be considered
24 elementary school pupils for ANB purposes and the 7th and
25 8th grade pupils shall be considered high school pupils for

1 ANB purposes; or

2 (d) a school has not been accredited by the board of
3 public education, the regularly enrolled, full-time pupils
4 attending the nonaccredited school shall not be eligible for
5 average number belonging calculation purposes, nor will an
6 average number belonging for the nonaccredited school be
7 used in determining the foundation program for such
8 district.

9 (4) When 11th or 12th grade students are regularly
10 enrolled on a part-time basis, high schools may calculate
11 the ANB to include an "equivalent ANB" for those students.
12 The method for calculating an equivalent ANB shall be
13 determined in a manner prescribed by the superintendent of
14 public instruction."

-End-

46th Legislature

HOUSE BILLS

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 336	An act to include engineers employed as faculty members in the Mt. Univ. System in collective bargaining...	1-23-79	Lory	2-9-79	DO NOT PASS	2-10-79
HB 383	An act to require approval of the trustees of a receiving school district before a transfer of territory from another school dist. can be made...	1-25-79	Ramirez	2-16-79	DO PASS	2-16-79
HB 408	An act allowing school dist. to conduct less than the minimum number of school days provided by law; providing definitions & conditions; providing for proportional reductions in school equalization.	1-26-79	Vinger	1-31-79	AND AS AMENDED, DO PASS	2-19-79
HB 428	An act to specify the composition of western interstate commission for higher education.	1-27-79	Moore	2-16-79	DO PASS	2-16-79
HB 446	An act to clarify provisions relating to teacher tenure under educational cooperative agreement contracts entered into by sch. dist. or other public agencies.	1-29-79	Dussault	2-7-79	AND AS AMENDED, DO PASS	2-19-79
HB 453	An act removed from spec. ed allowable costs the benefits for teachers' retirement, PERS, Soc. Security & unemployment comp; clarifying the procedures for fixing & levying of taxes & levying...	1-29-79	South	2-7-79	DO PASS	2-17-79

(Robert Richards, Lambert Public Schools, Continued)
"We need a bill to address this problem. I would like to see a combination of the two discussed."
(See Exhibit 4)

There were no opponents to House Bill 103 present. The hearing was closed.

Chairman Gilligan asked Representative Vinger, sponsor of House Bill 408 to open the hearing on that bill. Representative Vinger passed-out amendments to the bill and explained them to the committee.

Proponents of House Bill 408 were:

Rodney Svec, Wolf Point Schools, Wolf Point, Mt. -
Mr. Svec spoke in support of HB 408; he pointed out to the committee HB 408 could have a major impact on schools since the bill would reduce the following years budget 1/180% for each required school day lost in an emergency situation that is not made-up. A combination of the bills would be more favorable to Mr. Svec, as he felt this could eliminate the problem of schools losing their funds. (See Exhibit 5)

Harry Axtman, 107 Benton, Wolf Point, Mt. (County Superintendent of Schools)- Mr. Axtman spoke in support of HB 408.

There were no opponents to HB 408 present. The hearing was closed.

The committee asked questions of the witnesses.

Representative Nordtvedt asked if in House Bill 408, there was a clause which would impose a loss of 1/180% of the following years budget for each day of school not made up. Mr. Thomas answered Rep. Nordtvedt's question, stating that the school would loose no money if they make up the first three days cancelled in an emergency, with the approval of the county superintendent.

A Sub-Committee was assigned to examine the two bills, HB 103 and HB 408, being combined into one comprehensive piece of legislation. Those assigned to the sub-committee were: Representative Uhde, Chairman, and Representatives Reichert and Kvaalen.

Representative Lory questioned the necessity of the Governor declaring an emergency in order that the schools might be eligible for foundation program payments. Representative Lien responded to the question, stating that perhaps the county superintendent or county commissioners might be the appropriate officials to determine the emergency status.

carried, with Representative Eudaily voting no.

The Sub-Committee on House Bills 103 and 408 reported on the meeting held February 12, 1979. Recommendations were to amend HB 408, as requested by the sponsor of the bill, and to table HB 103.

HOUSE BILL 408: Representative Uhde moved to AMEND HB 408, to include an effective date and clarify section 4 dealing with the determination of eligibility. The motion carried, with Representative Eudaily voting no. Representative Uhde moved HB 408 AS AMENDED, DO PASS. The motion carried with Representatives Oberg and Eudaily voting no.

HOUSE BILL 103: Representative Uhde moved to TABLE HB 103. The motion carried unanimously.

HOUSE BILL 635. Written amendments were presented by Representative Nordtvedt as requested by the committee following consideration of HB 635 on February 15, 1979. Representative Nordtvedt moved to AMEND HB 635 so the bill would not require purchasers of school buses have them inspected by the Highway Patrol to make sure all identifying markings are removed before the bus may be registered. The motion carried, with Representatives Lory and Eudaily voting no. Representative Nordtvedt moved HB 635, AS AMENDED, DO PASS. The motion carried unanimously.

The meeting adjourned at 12:25 p.m.


Peter J. Gilligan, Chairman

MJW

COMMITTEE ON Education

USE JL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN P.S. AMENDED DATE	BE NOT CON- CURRED IN DATE
73	2/21/79	3/16/79 3/12/79	3/16/79				3/16/79		
18	2/21/79	3/12/79	3/12/79				3/12/79		
58	2/22/79	3/12/79	3/12/79				3/12/79		
32	2/22/79	3/12/79	3/19/79					3/16/79	
75	2/22/79	3/16/79 3/12/79	3/19/79					3/16/79	
64	2/19/79	3/2/79 3/5/79	3/6/79					3/2/79	
28	2/22/79	3/5/79	3/6/79				3/5/79		
15	2/23/79	3/14/79 3/16/79	3/16/79					3/16/79	
18	2/23/79	3/14/79 3/16/79	3/19/79					3/16/79	
28*	2/23/79	3/5/79	3/6/79					3/5/79	
53	2/23/79	3/14/79 3/16/79	3/19/79					3/16/79	
50	2/23/79	3/5/79 3/16/79	3/19/79					3/16/79	
30	2/23/79	3/12/79 taken off table 3/5/79 laid on table							
14	2/23/79	3/16/79	3/21/79					3/16/79	
24	2/27/79	3/14/79 3/16/79	3/19/79					3/16/79	
54	2/27/79	3/16/79	3/16/79					3/16/79	

SENATE EDUCATION COMMITTEE

March 5, 1979

The Senate Education Committee met Monday, March 5, 1979, in Room 402 of the Capitol Building. Senator Bob Brown, Chairman, called the meeting to order at 1:10 p.m. Committee members present were Senators Ed Smith, Thomas, O'Hara, Richard Smith, Anderson, Severson, Fasbender, McCallum, and Brown. Senator Blaylock was absent.

The following bills were heard: House Bill 328
House Bill 408
House Bill 460
House Bill 480

HOUSE BILL 408

Representative Vinger, sponsor of the bill, reviewed the bill section by section. He stated the bill provides for an act of God and emergency situations by allowing a school district to receive equalization aid even though it has failed to conduct instruction for the presently prescribed 180 days if such a failure is due to an unforeseen emergency and the district has made up at least 3 of the days lost.

PROPOSERS

Alve Thomas, representing the Office of Public Instruction, said OPI had received over 400 requests for change in calendar or conducting school on Saturday in order to make up lost days. They are in favor of the county superintendent making the decision as to emergency situations. Mr. Thomas supported the bill stating the three day provision is good.

Bob Richards, Superintendent, Lambert Schools, presented his written testimony in support of the bill to the committee (attachment #1).

Phil Campbell, representing the Montana Education Association, stated that Association's support for the bill.

Wayne Buchanan, representing the Montana School Boards Association, stated he supported the previous testimony. He said, as a former educator, he knew first hand of the problems that exist when you are forced to hold classes during vacations and on Saturdays. He said the educational quality on those days is low and feels with the provisions in the bill, that could be avoided and abuse of the privilege would be nil. He said emergencies do occur and school districts should not be penalized because of them.

Lynette Irigain, a student at Lambert, stated she lives 22 miles from school on gravel roads. She stated many times students must stay in town for several days due to bad weather and roads and they don't study as they should. She said further that kids don't try to learn on Saturdays. She felt both students and teachers

try harder during weekdays. She also has been stuck in the bus during a blizzard and said it is a very frightening experience to be stuck and not have any idea where you are.

Senator Ed Smith stated the same problems exist with weather and roads in Dagmar and Medicine Lake and he felt there needs to be some remedy such as the bill provides for the schools.

There were no further proponents and no opponents to the bill and the hearing was closed.

Senator O'Hara moved House Bill 408 Be Concurred In. The motion carried unanimously with Senators Blaylock and Richard Smith absent.

HOUSE BILL 480

Representative Pistoria, sponsor of the bill, said it requires that the exact purpose of a proposed school bond be made known to the voters before a school bond election. He stated many citizens question the expenditures and if the purpose is plainly stated they will be more likely to approve the bond. He stated the explanation should include only the major items, not the minor details.

PROPOSERS

Wayne Buchanan, representing the Montana School Boards Association, said the Legislative Committee of the Association discussed the bill and felt if districts aren't plainly stating what they want money for then they should be and therefore they support the bill.

There were no further proponents and no opponents to the bill and the hearing was closed.

HOUSE BILL 460

Representative Thoft, sponsor of the bill, stated the bill provides for ANB funding to be on a current year level. Presently it is determined on the enrollment of the last three years. He said this bill would affect only those schools with an unusual projected increase in enrollment, not those schools who remain stable or have a declining enrollment.

PROPOSERS

Bob Stockton, representing the Office of Public Instruction, stated the law as it is works well, but when a sudden influx of students developed the law broke down in those schools with an increase in the second and third years. It meant that emergency budgets had to be developed and adopted. That is an awkward procedure and this bill would give a more orderly procedure for school budgeting in cases of rapid growth.

Page 4
Minutes
March 5, 1979

Senator Thomas moved House Bill 328 Be Concurred In. The motion carried unanimously with Senators Smith and Blaylock absent.

Senator Richard Smith entered the meeting.

HOUSE BILL 485

Senator McCallum moved to amend the bill as per the attached committee report (attachment #3). The motion carried on a roll call vote with Senators Richard Smith, Fasbender and Brown voting no (see attached roll call vote #4).

Senator Fasbender moved House Bill 485 Be Concurred In As Amended. The motion carried on a roll call vote with Senators Ed Smith, Richard Smith, and McCallum voting no (see attached roll call vote #5).

RECONSIDERATION OF ACTION ON HOUSE BILL 408

Due to some errors in the bill discovered by Bob Pyfer, Legislative Council, the bill was reconsidered for amendment. Senator Ed Smith moved to amend the bill as per the amendments on the attached committee report #6. The motion carried unanimously with Senator Blaylock absent.

Senator Ed Smith moved House Bill 408 Be Concurred In As Amended. The motion carried unanimously with Senator Blaylock absent.

HOUSE BILL 480

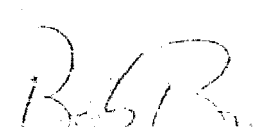
Senator Severson moved House Bill 480 Be Not Concurred In.

Senator McCallum made a substitute motion to lay House Bill 480 on the table. The motion carried on a roll call vote (see attached roll call vote #7).

HOUSE BILL 162

Senator O'Hara moved House Bill 162 Be Concurred In. The motion carried on a roll call vote (see attached roll call vote #8).

There being no further business, the meeting was closed to reconvene Wednesday, March 7, at 1:00 p.m.



Senator Bob Brown, Chairman

Date 3/5/79

ROLL CALL

EDUCATION COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Sen. Bob Brown, Chairman	X		
Sen. Ed Smith, Vice Chairman	X		
Sen. Jesse O'Hara	X		
Sen. George McCallum	X		
Sen. Elmer Severson	X		
Sen. Mike Anderson	X		
Sen. Chet Blaylock		X	
Sen. Larry Fasbender	X		
Sen. Richard Smith	X <i>late</i>		
Sen. Bill Thomas	X		

Each Day Attach to Minutes.

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Opp
Bill Willavize	Florence-Curtis School	HB 460	✓	
Richard Diehl	Lambert Public School	HB 408	✓	
~~Justin M. Smith~~	~~Lambert Public School~~	"	✓	
Philip Prevost	Lambert Public School	"	✓	
Alben Rosanen	Lambert Public School	"	✓	
Therette Higgins	Lambert Public School	"	✓	
Grace Rouschendorf	Lambert Public School	"	✓	
Denise Carda	Lambert Public School	"	✓	
Gene Rouschendorf	Lambert Public School	"	✓	
Morris Roberts	Lambert Public School	HB 408	✓	
Sammy Mullen	Lambert Public School	"	✓	
Arnold Rosanen	Lambert High School	"	✓	
Angela Cascha	Lambert Public School	"	✓	
Andrea Whitney	—	460	✓	
James Watts	Norwood High School, Norwood, MT.	460	✓	
Bonnie Bedford	Lambert Public School	HB 408	✓	
Ellen Gidner	Legislative Auditor	HB 328	✓	
D. M. Mammey	FRODO M.	408	✓	
Phil Campbell	MCA			
Alvin Thomas	OPI	408	✓	
Wayne Buchanan	MSBA	4-08	✓	

NAME: Rep. Garry L. King DATE: 3/5/79

ADDRESS: 1944 Cameron

PHONE: 443 - 5407

REPRESENTING WHOM? Dist #3

APPEARING ON WHICH PROPOSAL: H.B. 405

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

#1
NAME: Robert Richards DATE: March 5, 1979

ADDRESS: Lambert 7114

PHONE: 774-3395

REPRESENTING WHOM? Lambert School

APPEARING ON WHICH PROPOSAL: H.B. 408

DO YOU: SUPPORT? Yes AMEND? OPPOSE?

COMMENTS: This is a measure that will
allow the small school districts of the
state to close school during the winter
over the conditions without the penalty of
attending school one or more weeks beyond
the normal closing date. Dates made up
by having school on Sat. and Sunday
the closing date are at best questionable
for educational value.

STANDING COMMITTEE REPORT

March 5, 1979

MR. President

We, your committee on Education

having had under consideration House Bill No. 403

Vinger (E. Smith)

Respectfully report as follows: That House Bill No. 403
third reading bill, be amended as follows:

1. Page 1, lines 19 through 20.
Following: "interpreted"
Strike: lines 19 through 20 in their entirety
Insert: "."
2. Page 4, line 21.
Following: "by"
Insert: "the county superintendent or"
3. Page 5, line 6.
Following: "by"
Insert: "the county superintendent or"

And, as so amended, BE CONCURRED IN
FOR PASS:

HOUSE BILL NO. 408

INTRODUCED BY VINGER, JENSEN, ANDERSON, KEYSER,

IVERSON, UHDE, CONROY

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING SCHOOL DISTRICTS TO CONDUCT LESS THAN THE MINIMUM NUMBER OF SCHOOL DAYS PROVIDED BY LAW; PROVIDING DEFINITIONS AND CONDITIONS; PROVIDING FOR PROPORTIONAL REDUCTIONS IN SCHOOL EQUALIZATION AID; AMENDING SECTIONS 20-1-301, 20-6-209, AND 20-9-311, MCA; PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Purpose. [Sections 1 through 5] govern a school district's entitlement to state equalization apportionment funds for any school year during which the school district is unable to conduct the minimum number of school days required by law by reason of one or more unforeseen emergencies. The provisions of [sections 1 through 5] must be narrowly interpreted by---the superintendent-of-public-instruction.

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 5], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Unforeseen emergency" means a fire, flood, explosion, storm, earthquake, riot, insurrection, community

disaster, or act of God or any combination of the foregoing that acts as a principal cause for a school district's inability to conduct one or more scheduled school days.

(2) ~~"School-day" means a calendar day on which all students enrolled in the preschool-handicapped/kindergarten through-12th-grade program of a school district are scheduled for participation in educational activity that is planned, supervised, and conducted by or under the supervision of the school district certificated staff and on which day all or any portion of the students enrolled in the program actually commence participation in such educational activity.~~

(2) "SCHOOL DAY" MEANS THE SCHOOL DAY DEFINED IN 20-1-302.

(3) "Reasonable effort" means the rescheduling or extension of the school district's instructional calendar in an effort to attain the minimum number of school days required by law by:

(a) extending the school year to-and-through-at-least June-14 1 WEEK BEYOND THE LAST SCHEDULED DAY; or

(b) the use of scheduled vacation days.

NEW SECTION. Section 3. Unforeseen emergency minimum. In no case may a district be considered to have made a reasonable effort unless at least 3 school days that have been lost by reason of one or more unforeseen emergencies

1 have in fact been made up.

2 NEW SECTION. Section 4. Determination of eligibility.
3 If the COUNTY SUPERINTENDENT OR, IN A COUNTY WITH NO COUNTY
4 SUPERINTENDENT, THE superintendent of public instruction
5 determines that a reasonable effort has been made to make up
6 all school days lost by reason of one or more unforeseen
7 emergencies but fewer than the minimum number of school days
8 required by law have been conducted, the school district
9 will nevertheless be credited with full annual equalization
10 apportionment according to the rate established in [section
11 5].

12 NEW SECTION. Section 5. Rate of reduction in annual
13 apportionment entitlement. (1) For each school day short of
14 the minimum number of school days required by law that a
15 school district fails to conduct by reason of one or more
16 unforeseen emergencies or by reason of any other cause and
17 for which the school district is not entitled to
18 apportionment credit, the superintendent of public
19 instruction shall reduce the equalization apportionment and
20 entitlement of the district for that school year by 1/180th.

21 (2) Kindergarten and grade 1 through 12 programs shall
22 be considered separately for the purpose of computing
23 compliance with minimum school day requirements and any loss
24 of apportionment.

25 Section 6. Section 20-1-301, MCA, is amended to read:

1 "20-1-301. School fiscal year. The school fiscal year
2 shall begin on July 1 and end on June 30. At least 180
3 school days of pupil instruction shall be conducted during
4 each school fiscal year, unless a variance for kindergarten
5 has been granted under 20-1-302 or a district is granted a
6 variance under the provisions of [sections 1 through 5]. Any
7 district that fails to provide for at least 180 school days
8 of pupil instruction shall not be entitled to receive any
9 apportionment of the state interest and income funds. Any
10 such forfeited moneys shall be apportioned by the county
11 superintendent to the other elementary districts of his
12 county."

13 Section 7. Section 20-6-209, MCA, is amended to read:

14 "20-6-209. Elementary district abandonment. (1) The
15 county superintendent shall declare an elementary district
16 to be abandoned and order the attachment of the territory of
17 such district to a contiguous district of the county when:

18 (a) a school has not been operated by a district for
19 at least 180 days under the provisions of 20-1-301 for each
20 of 3 consecutive school fiscal years or a lesser number of
21 days as approved by THE COUNTY SUPERINTENDENT OR the
22 superintendent of public instruction under the provisions of
23 [section 4]; or

24 (b) there is an insufficient number of residents who
25 are qualified electors of the district that can and will

1 serve as the trustees and clerk of the district so that a
2 legal board of trustees can be organized.

3 (2) The county superintendent shall notify the
4 elementary district that has not operated a school for 2
5 consecutive years before the first day of the third year
6 that the failure to operate a school for 180 days ~~or a~~
7 ~~lesser number of days than approved by THE COUNTY~~
8 ~~SUPERINTENDENT OR the superintendent of public instruction~~
9 ~~as provided under the provisions of [section 4]~~ during the
10 ensuing school fiscal year shall constitute grounds for
11 abandonment of such district at the conclusion of the
12 succeeding school fiscal year. Failure by the county
13 superintendent to provide such notification shall not
14 constitute a waiver of the abandonment requirement
15 prescribed in subsection (1)(a) above.

16 (3) Any abandonment under subsection (1)(a) shall
17 become effective on July 1. Any abandonment of an elementary
18 district under subsection (1)(b) shall become effective
19 immediately on the date of the abandonment order."

20 Section 8. Section 20-9-311, MCA, is amended to read:

21 "20-9-311. Calculation of average number belonging
22 (ANB). (1) Average number belonging shall be computed by
23 determining the total of the aggregate days of attendance by
24 regularly enrolled, full-time pupils during the current
25 school fiscal year plus the aggregate days of absence by

1 regularly enrolled, full-time pupils during the current
2 school fiscal year and by dividing such total by 180.
3 ~~However, when a school district has approval to operate less~~
4 ~~than 180 school days under [section 4], such total shall be~~
5 ~~calculated in accordance with the provisions of [section 5].~~
6 Attendance for a part of a morning session or a part of an
7 afternoon session by a pupil shall be counted as attendance
8 for one-half day. In calculating the ANB for pupils enrolled
9 in a program established under 20-7-117 prior to January 1,
10 1974, or pursuant to 20-7-117(1), attendance at or absence
11 from a regular session of the program for at least 2 hours
12 of either a morning or an afternoon session will be counted
13 as one-half of a day attended or absent as the case may be.
14 If a variance has been granted as provided in 20-1-302, ANB
15 will be computed in a manner prescribed by the
16 superintendent of public instruction, but in no case shall
17 the ANB exceed one-half for each kindergarten pupil. When
18 any pupil has been absent, with or without excuse, for more
19 than 10 consecutive school days, including
20 pupil-instruction-related days, his absence after the 10th
21 day of absence shall not be included in the aggregate days
22 of absence and his enrollment in the school shall not be
23 considered in the calculation of the average number
24 belonging until he resumes attendance at school.

25 (2) If a student spends less than half his time in the

1 regular program and the balance of his time in school in the
 2 special education program, he shall be considered a
 3 full-time special pupil but shall not be considered
 4 regularly enrolled for ANB purposes. If a student spends
 5 half or more of his time in school in the regular program
 6 and the balance of his time in the special education
 7 program, he shall be considered regularly enrolled for ANB
 8 purposes.

9 (3) The average number belonging of the regularly
 10 enrolled, full-time pupils for the public schools of a
 11 district shall be calculated individually for each school,
 12 except that when:

13 (a) more than one school of a district, other than a
 14 junior high school in an elementary district which has been
 15 approved and accredited as a junior high school, is located
 16 within the incorporated limits of a city or town, the
 17 average number belonging of such schools shall be based on
 18 the aggregate of all the regularly enrolled, full-time
 19 pupils attending such schools located within the
 20 incorporated limits of a city or town;

21 (b) a junior high school which has been approved and
 22 accredited as a junior high school is located within the
 23 incorporated limits of a city or town in which a high school
 24 is located, all of the regularly enrolled, full-time pupils
 25 of the junior high school shall be considered as high school

1 district pupils for the purposes of calculating the average
 2 number belonging of the high schools located within the
 3 incorporated limits of such city or town;

4 (c) a middle school has been approved and accredited,
 5 in which case pupils below the 7th grade shall be considered
 6 elementary school pupils for ANB purposes and the 7th and
 7 8th grade pupils shall be considered high school pupils for
 8 ANB purposes; or

9 (d) a school has not been accredited by the board of
 10 public education, the regularly enrolled, full-time pupils
 11 attending the nonaccredited school shall not be eligible for
 12 average number belonging calculation purposes, nor will an
 13 average number belonging for the nonaccredited school be
 14 used in determining the foundation program for such
 15 district.

16 (4) When 11th or 12th grade students are regularly
 17 enrolled on a part-time basis, high schools may calculate
 18 the ANB to include an "equivalent ANB" for those students.
 19 The method for calculating an equivalent ANB shall be
 20 determined in a manner prescribed by the superintendent of
 21 public instruction."

22 SECTION 9. EFFECTIVE DATE. THIS ACT IS EFFECTIVE UPON
 23 PASSAGE AND APPROVAL.

-End-